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EXECUTIVE DEPT.

REGINALD STANTON  
J.S.C.

Prepared by the Court.

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION: ESSEX COUNTY  
DOCKET NO. C 1852-83E

STATE OF NEW JERSEY, DEPARTMENT OF  
ENVIRONMENTAL PROTECTION,

Plaintiffs,

vs.

SCIENTIFIC CHEMICAL PROCESSING, INC.,  
a corporation, et al.,

Defendants.

: Civil Action

: REVISED ORDER APPOINTING  
: COMMISSIONER OF DEPARTMENT OF  
: ENVIRONMENTAL PROTECTION AS  
: CUSTODIAN OF SITES AND  
: GRANTING OTHER RELIEF

x

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This matter having been brought before the Court on Order to Show Cause by Irwin I. Kimmelman, Attorney General of New Jersey, Attorney for State of New Jersey, Department of Environmental Protection, Deputy Attorney General David W. Reger appearing and Harriet Sims Harvey, Esq. appearing on behalf of defendant Mack Barnes; and Edward J. Egan, Esq. appearing on behalf of defendants Inmar Associates, Inc. and Marvin Mahan; and Paul S. Barbire, Esq. appearing on behalf of defendants, Sigmond and Presto, a partnership and Dominick Presto individually; and Herbert G. Case and Leif R. Sigmond appearing pro se; and

It further appearing that the return date for the

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Order to Show Cause filed with the Court on May 5, 1983 was set down for May 27, 1983; and

It further appearing that defendants, Scientific Chemical Processing, Inc. (SCP), Energall, Inc. (Energall) and Presto, Inc. (Presto) operated special waste facilities wherein chemical waste was reprocessed, treated, reclaimed and/or disposed of at 411 Wilson Avenue, City of Newark, Essex County, New Jersey (Newark site) and 216 Paterson Plank Road. Carlstadt, Bergen County, New Jersey (Carlstadt site); and

It further appearing that an administrative hearing captioned "In the Matter of Court Ordered Administrative Hearing on Scientific Chemical Processing, Energall, Inc. and Presto, Inc." was conducted in June and July 1979 regarding the operations of said corporations and the conditions which existed at the Newark and Carlstadt sites; and

It further appearing that on October 11, 1979 Administrative Law Judge Lewis P. Goldshore issued his report and recommended decision which was thereafter approved by the Commissioner of the Department of Environmental Protection (DEP) and affirmed by the Appellate Division; and

It further appearing based upon the aforesaid report and affidavits attached to the Complaint that perilous and dangerous conditions presently exist at both the Newark and Carlstadt sites which threaten the public health, safety and welfare; and

It further appearing that neither the owners, operators and/or directors of SCP, Energell and Presto, nor the land-owners of the Newark and Carlstadt sites have taken appropriate action to cleanup said sites and abate the danger which they pose; and

It further appearing that the Newark and Carlstadt sites must be cleaned up forthwith,

And the court having considered the Verified Complaint and affidavits attached thereto, plaintiff's Brief in Support of the Order to Show Cause, the papers submitted in opposition thereto, the arguments of counsel, and for good cause shown;

IT IS on this 16 day of June, 1983, ORDERED that:

1. The Administrative Law Judge's report and recommended decision "In the Matter of Court Ordered Administrative Hearing on Scientific Chemical Processing, Energall, Inc. and Presto, Inc." dated October 11, 1979, is and shall be binding on the parties in the within action.

2. With the exception of defendant Mahan, all defendants, including SCP, Energall, Presto, Sigmond, Case, Barnes and Dominick Presto, together with landowners Sigmond and Presto, partnership and its individual partners (Newark site) and Inmar Associates, Inc. (Carlstadt site) are responsible for cleanup of the sites which they were associated or connected with.

3. On July 7, 1983 the Court shall decide the issue of whether defendant Marvin Mahan is individually liable for cleanup of the Carlstadt site. The State shall submit a brief

in support of its position by June 22, 1983 and Mahan shall submit his reply brief by July 1, 1983.

4. The Commissioner of the Department of Environmental Protection is appointed custodian of the Newark and Carlstadt sites with responsibility for physical security of the sites, authority to exclude all persons from entry thereon and authority to take other measures which he deems necessary in connection with this responsibility. This appointment is effective as of May 27, 1983.

5. Each defendant, with the exception of Mahan, shall submit to the court and DEP by July 1, 1983 a comprehensive plan for cleanup of the site/sites which he was connected or associated with. All financial resources to be dedicated thereto shall clearly be set forth. More than one defendant may adopt a joint cleanup plan. The only basis to be excused from the provisions of this paragraph to the Order shall be by submission of a detailed financial plan showing that said defendant is incapable of contributing to or paying for cleanup.

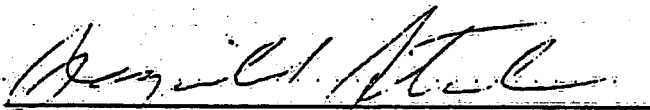
6. On Thursday, July 7, 1983, a hearing shall be held regarding the adequacy of the proposals submitted by the aforesaid defendants.

7. All defendants with the exception of Mahan shall have a lien impressed upon their real property within the State of New Jersey until further order of this Court. Further, said defendants shall not transfer or encumber said property without leave of the Court. In the event a need arises to transfer

assets, application may be made to the Court, on two day's notice, for leave to do so.

8. No additional parties, including generators, shall be added to this litigation. It is noted that the defendants have indicated that they would like to join additional parties. The Court is prohibiting such joinder because the Court believes that the need to have a rapid adjudication of matters relating to the cleanup of the premises is an imperative public interest which would be frustrated by joining additional parties. The entire controversy doctrine shall not bar defendants from seeking relief against other parties in future litigation.

9. This revised order replaces the order previously entered herein on June 3, 1983.

  
REGINALD STANTON, J.S.C.

The Court is mailing copies of this Order to all counsel of record. Mr. Reger shall make certain that copies of this Order are promptly mailed by his office to the defendants appearing pro se.

R. S., J.S.C.